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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/728,063

12/04/2003

Satoshi Tani

FY.50763US0A

7959

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7590

06/20/2005

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EXAMINER

BASINGER, SHERMAN D

ART UNIT

PAPER NUMBER

3617

DATE MAILED: 06/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/728,063

Applicant(s)

TANI ET AL.

Examiner

Sherman D. Basinger

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-17 and 19-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9 and 10 is/are allowed.
- 6) ☒ Claim(s) 5-7, 11, 15-17 and 19-21 is/are rejected.
- 7) ☒ Claim(s) 8 and 12-14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The replacement sheet of drawings with figures 2 and 2a has been approved for entry.
2. The sheet of drawings with new figure 2b has been approved.

Claim Objections

3. Claims 9 and 10 are objected to because of the following informalities:
in claim 9 "the housing" has no clear antecedent and in claim 10 "the force of the biasing mechanism operating on the throttle lever" and "the force of the biasing mechanism operating on the control lever" have no clear antecedents.

Appropriate correction is required.

The above objections resulted because applicant in rewriting claims 9 and 10 into independent form did not include the subject matter of parent claims 7 and 8.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 21 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Art Unit: 3617

Applicant has failed to describe in detail how the means for selecting, control lever 134, lowers engine speed during a shifting operation.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 5, 6, 7 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Matsuda et al.

In Matsuda et al the hull is shown in figure 1, the engine is E, the throttle is 51, the jet propulsion unit is P, the steering nozzle is 18, the throttle actuator mechanism is 35, the control lever is Lt, the selective first and second positions of the control lever are respectively shown in figures 4B and 4A, the control lever is actuatable to assume either of the first and second positions independently of a steering condition of the watercraft by manually pivoting of the lever from the position shown in figure 4B to the position shown in figure 4A, and the throttle has a first position when the control lever is in the position shown in figure 4B, a second position when the control lever is in the position shown in figure 4A and when the control lever is in the position shown in figure 4A the throttle is opened more than when the control lever is in the position shown in figure 4B.

Art Unit: 3617

When the throttle rests in the position shown in figure 4A, the engine sufficiently powers the jet propulsion unit to assist steering of the watercraft when decelerating from at least the planing speed.

The operational control device housing supporting the control lever is 34. Housing 34 is disposed next to at least a portion of the throttle actuator mechanism.

8. Claims 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Kleeman et al of record.

Kleeman et al discloses a method of controlling an engine speed of a marine engine that powers a propulsion unit of a watercraft (see column 2, lines 58 and 59), the method comprising selecting between a first throttle resting position figure 4 and a second throttle resting position figure 5 depending upon a desired operational mode of the watercraft (trolling or not trolling), the second throttle resting position of figure 5 causing the engine to power the propulsion unit by an amount sufficient to assist steering of the watercraft when decelerating from at least a planing speed, and the step of selecting between the first throttle resting position and the second throttle resting position clearly being independent of a steering condition of the watercraft.

As is shown in figure 6, the selection of the engine speed is controlled manually.

Art Unit: 3617

9. Claims 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Irgens. Irgens discloses a watercraft comprising a hull partially shown in figure 1, an engine 13 supported by the hull, the engine comprising a throttle 15, a means 43 for selecting between at least a first and a second resting position for the throttle, the second resting position shown in figure 3 providing a larger opening degree than the first resting position shown in figure 1, and a throttle actuator mechanism 23 coupled to the throttle to move the throttle from either the first or second resting position toward a wide open position.

In Irgens the means for selecting is operable to select between the first and second resting positions at least while the engine is acting to propel the watercraft in a forward direction because it is pivoted by pivot 44 to frame 25 such that it can be pivoted from the position shown in figure 1 to the position shown in figure 3 irrespective of whether control lever 23 is in the reverse, neutral or forward positions.

Means 43 is disposed next to at

least a portion of the throttle actuator mechanism 23 as is shown in figures 1 and 3.

Also, means 43 additionally lowers

engine speed during a shifting operation because it is coupled to arm 35.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kleeman et al in view of Powers.

Kleeman et al does not disclose that the selection of engine speed is controlled automatically. Powers discloses the use of an electric motor to control the throttle, which means that the throttle and therefor the engine speed is controlled automatically through the electric motor. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to control the throttle of Kleeman et al automatically and therefor the engine speed automatically through the use of an electric motor. The electric motor can be used to automatically adjust head 42 of Kleeman et al. Motivation to do so is to not have to adjust head 42 manually. Head 42 can be adjusted with a switch and electric motor as taught by Powers.

Allowable Subject Matter

12. Claims 8 and 12-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

13. Claims 9 and 10 are allowed.

Response to Arguments

14. Applicant's arguments filed June 2, 2005 have been fully considered but they are not persuasive.

15. Applicant argues that paragraphs 54-56 of the specification provide one having ordinary skill in the art with an understanding of how control lever 134 can lower engine

speed during shifting operations. This argument is not persuasive because the paragraphs pointed out by applicant would provide understanding to one of ordinary skill in the art of how the ecu can lower engine speed during shifting, but does not provide any insight into how control lever 134 does so. Control lever 134 sets engine idle speed at two rest positions. How can this feature relate to lowering engine speed during shifting?

16. With regard to the arguments concerning Matsuda et al, because claim 5 has been amended to state that "the control lever being actuatable to assume either of the first and second positions independently of a steering condition of the watercraft", the rejection of claim 5 with Matsuda et al has been modified to indicate that the claimed control lever is Lt of Matsuda et al. This lever can be manipulated by hand if in the position shown in figure 4B to assume either of the first and second positions independently of a steering condition of the watercraft.

17. With regard to the arguments concerning claims 15-17, a new grounds of rejection with Kleeman et al has been set forth in view of the amendments made to claim 15.

18. With regard to the arguments concerning claims 19-21, it is pointed out that there is nothing to prevent lever 43 of Irgens from being advanced from its position shown in figure 1 to its position shown in figure 3 when lever 23 is in the forward position. That is because lever 43 is pivoted on frame 25. While lever 43 is moved to advance idle when lever 23 is in the neutral position, there is nothing to prevent it from being advanced when lever 23 is in the forward position if so desired.

Conclusion

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherman D. Basinger whose telephone number is 571-272-6679. The examiner can normally be reached on Monday through Friday, 5:30 a.m. to 2:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Sherman D. Basinger
Primary Examiner
Art Unit 3617
6/15/05

Wednesday, June 15, 2005

OPERATIONAL CONTROL DEVICE FOR JET PROPULSION
WATERCRAFT

Tani et al.

Appl. No.: 10/728,063 Atty Docket: FY.50763US0A

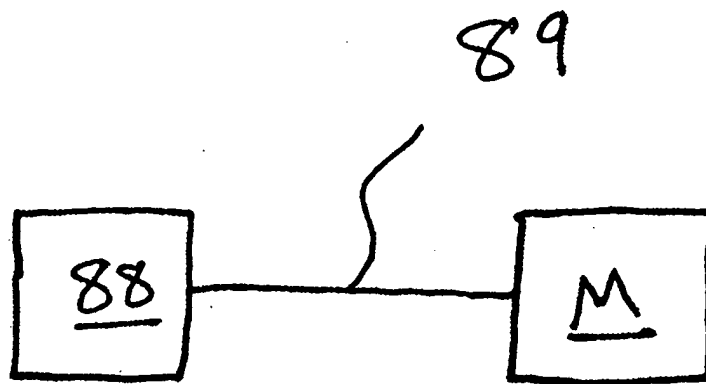


Figure 2b

OPERATIONAL CONTROL DEVICE FOR JET PROPULSION
 WATERCRAFT

Tani et al.

Appl. No.: 10/728,063 Atty. Docket: FY.50763US0A

Best Available Copy

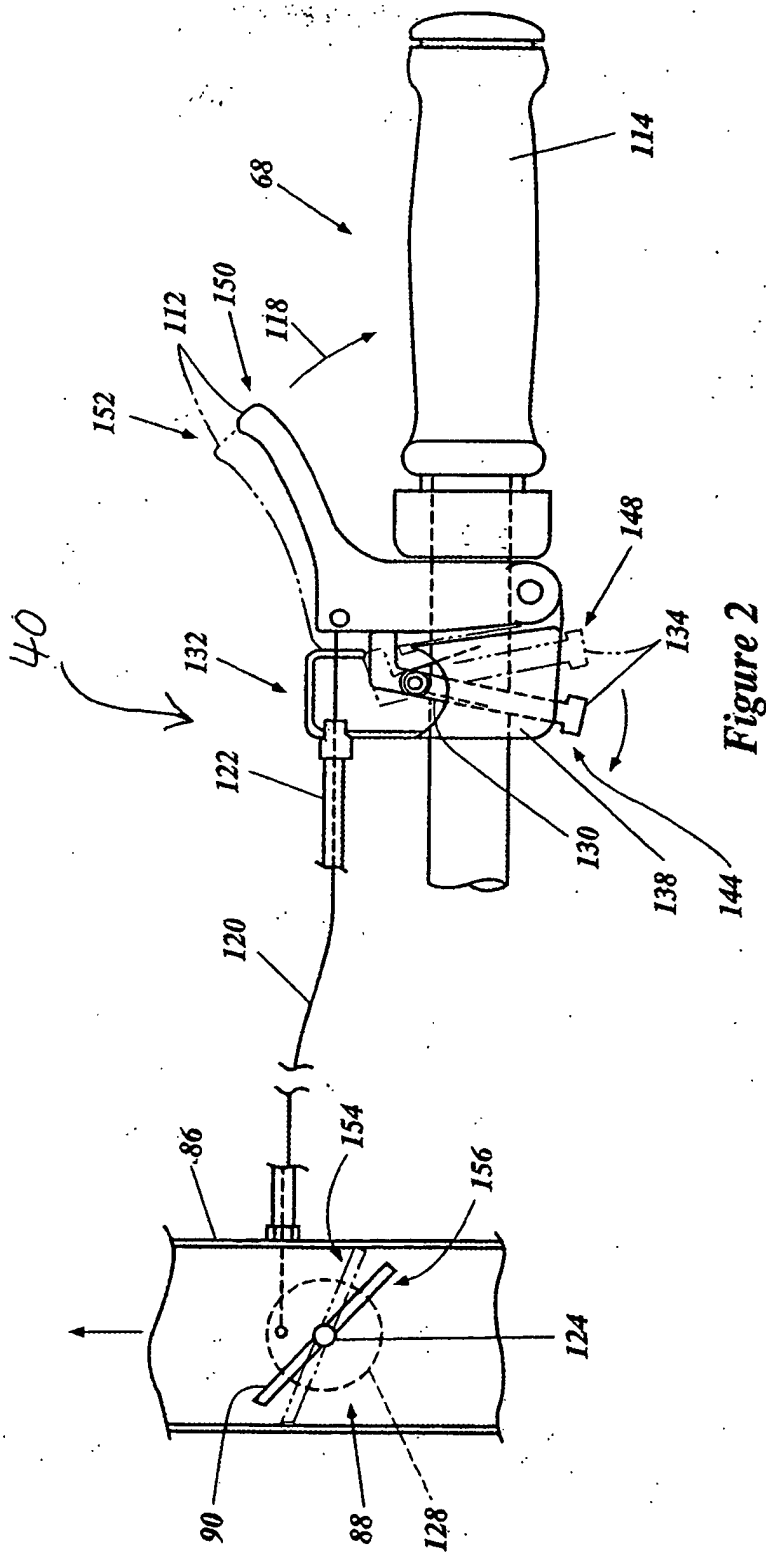


Figure 2

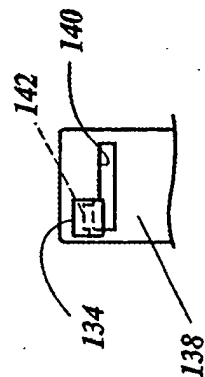


Figure 2a

approved
 9/3
 6/14/05